

Michael J. Bettinger, SBN 122196
mbettinger@sidley.com
Ezekiel L. Rauscher, SBN 269141
erauscher@sidley.com
SIDLEY AUSTIN LLP
555 California Street, Suite 2000
San Francisco, California 94104
Telephone: +1 415 772-1200;
Facsimile: +1 415 772-7400

Attorneys for THE REALREAL, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT CALIFORNIA
SAN FRANCISCO DIVISION

ZEE APPAREL INC. d/b/a SHOP UNDER,
a corporation incorporated under the laws of
the Province of Quebec, Canada

Plaintiff/Counterdefendant,

vs.

THE REALREAL, INC.,
a Delaware corporation,

Defendant/Counterclaimant.

Case No. 3:16-cv-00755-HSG

**[PROPOSED] ORDER GRANTING THE
REALREAL, INC.'S MOTION FOR
SUMMARY JUDGMENT**

1 Having considered The RealReal Inc.'s Motion for Summary Judgment ("Motion"), the
2 Declaration of Ezekiel Rauscher in Support of the Motion ("Rauscher Declaration") and the
3 Exhibits thereto, the Declaration of Graham Wetzberger in Support of the Motion ("Wetzberger
4 Declaration") and all other papers filed in support of the Motion, IT IS HEREBY ORDERED
5 THAT:

6 The RealReal, Inc.'s Motion for Summary Judgment is GRANTED.

7 Judgment is entered on behalf of The RealReal and against Zee Apparel on all of Zee
8 Apparel's claims asserted in Zee Apparel's Complaint filed as ECF No. 1, and Zee Apparel shall
9 take nothing on any of its claims.

10 Judgment is entered on behalf of The RealReal and against Zee Apparel on Count I (for
11 breach of contract) and Count III (for declaratory relief) of The RealReal's counterclaims asserted
12 in The RealReal's Answer and Counterclaims filed as ECF No. 20. Zee Apparel materially
13 breached the agreement attached to Zee Apparel's Complaint as Exhibit A by providing 100
14 counterfeit items to The RealReal for consignment. The Court declares as a matter of law that the
15 100 items consigned by Zee Apparel that The RealReal retained are counterfeit, and that The
16 RealReal need not return them to Zee Apparel but instead may either destroy them or provide them
17 to the federal brand owners.

18
19 **IT IS SO ORDERED.**

20 Dated:

21
22 THE HONORABLE HAYWOOD S. GILLIAM, JR.
United States District Court Judge